Senate Committee on Environment and Public Works
Hearing entitled, *"Hearing on the Nomination of Alexandra Dunn to be Assistant Administrator of the Environmental Protection Agency"*
November 29, 2018
Questions for the Record for Alexandra Dunn

Ranking Member Carper:

In our private meeting, we discussed my concerns about the manner in which EPA is implementing the Toxic Substances Control Act (TSCA). It is my belief that if EPA does not immediately reverse course, it risks having the majority of its TSCA implementation efforts overturned in litigation. I have several questions regarding some of these concerns. Since, in your previous capacity, you reviewed and provided input into versions of the legislation that was ultimately enacted, I expect that you will be sufficiently familiar with the subject matter to provide me with the specific responses I am looking for. The attachments referenced in these questions consist of EPA technical assistance provided to Congress while the law was being negotiated, and are available at https://www.epw.senate.gov/public/_cache/files/f/0/f0729f1a-4385-453f-b7f8-442825a0721c/A681AA266D5CC024C98FCC85A944EB5E.senator-carper-questions-for-the-record-to-epa-nominees.pdf.

1. Section 26 of TSCA states that:

   "(4) CHEMICAL SUBSTANCES WITH COMPLETED RISK ASSESSMENTS.—With respect to a chemical substance listed in the 2014 update to the TSCA Work Plan for Chemical Assessments for which the Administrator has published a completed risk assessment prior to the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, the Administrator may publish proposed and final rules under section 6(a) that are consistent with the scope of the completed risk assessment for the chemical substance and consistent with other applicable requirements of section 6."

Page 1 of Attachment 1 is an email sent by EPA on March 17, 2016, the substance of which was shared with the bipartisan and bicameral negotiators of the Toxic Substances Control Act. It states that EPA "just discovered a technical issue that will have significant policy implications for EPA's ongoing work under Section 6. As currently drafted, both Senate and House bills could frustrate EPA's ability to timely manage risks that have been (or may be) identified in our current Work Plan risk assessments." The email goes on to describe several risk assessments on chemical substances (TCE, NMP, MC and 1-BP) that had been completed or were near completion by EPA, and stated that "EPA is *not* looking at all the conditions of use for these chemicals. This approach, which might be characterized as a *partial* risk evaluation or *partial* safety determination, we see as simply not contemplated under the Senate and House bills. The section 6 structure in both bills would require EPA to assess a chemical in its entirety, based on all conditions of use – not just a subset of those uses." EPA then went on to state that if it were to move forward with rulemakings to restrict or ban some or all of these substances (which it has subsequently proposed to do), there would be some risk that the rules would be found to be inconsistent with the new statutory requirement to assess all conditions of use. EPA said that it

would "welcome an opportunity to work with you on a drafting solution to this issue."

a. Do you agree with EPA's March 17, 2016 view that if it had moved forward with these partial risk evaluations and rulemakings absent explicit statutory authority to do so even though the risk evaluations had not considered all conditions of use, that EPA could have been sued for not complying with the law's requirements? If not, please provide specific reasons why not.

During my previous professional capacity, I was provided with an opportunity to offer input on behalf of state environmental directors on a range of issues, including the reauthorization of TSCA. However, in my current experience as Regional Administrator in EPA Region 1, I have not been involved in the implementation of the law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

b. Pages 2 and 3 of Attachment 1 consist of April 2, 2016 Technical Assistance from EPA that was provided to the Senate on a drafting solution to address the problem identified by EPA on March 17, 2016. Do you agree that this language, which is also drafted as an amendment to Section 26, bears a close resemblance to the language that was enacted into law, and, like the enacted text, provides EPA with statutory authority to complete rulemakings on the chemical substances on which it completed risk assessments prior to the enactment of the new law even though the risk assessments were not undertaken for all conditions of use? If not, please provide specific reasons why not.

During my previous professional capacity, I was provided with an opportunity to offer input on behalf of state environmental directors on a range of issues, including the reauthorization of TSCA. However, in my current experience as Regional Administrator in EPA Region 1, I have not been involved in the implementation of the law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

2. The newly enacted TSCA, for new chemicals, states that:|

"(e) REGULATION PENDING DEVELOPMENT OF INFORMATION.—
(1)(A) If the Administrator determines that—
(i) the information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of a chemical substance with respect to which notice is required by subsection (a); or
(ii)(I) in the absence of sufficient information to permit the Administrator to make such an evaluation, the manufacture, processing, distribution in commerce, use, or disposal of such substance, or any combination of such activities, may present an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use; or (II) such substance is or will be produced in

substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance,
the Administrator shall issue an order, to take effect on the expiration of the applicable review period, to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of such substance or to prohibit or limit any combination of such activities to the extent necessary to protect against an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use, and the submitter of the notice may commence manufacture of the chemical substance, or manufacture or processing of the chemical substance for a significant new use, including while any required information is being developed, only in compliance with the order."

Attachment 2 consists of a portion of EPA's Technical Assistance on an April 7, 2016 draft of Section 5 of TSCA that EPA provided to the Senate. Comment A7 provides EPA's views on section 5(e). This comment noted a change from previous drafts, observing that the draft allowed manufacture of a new chemical to proceed even if EPA did not have enough information to determine whether it posed an unreasonable risk. This is because the draft as written allowed for manufacture to proceed if EPA *either* took steps to obtain sufficient information about the chemical substance (but before it received and evaluated that information) OR if it imposed a risk management order. EPA also suggested some edits to this draft to restore the "functionality of the prior draft," which ensured that manufacture could not proceed unless/until the information about the chemical substance was sufficient and EPA made the necessary risk determination, or in compliance with an EPA-issued order to protect against unreasonable risk under the conditions of use while the information was being developed. Do you agree that the statute requires EPA to issue an order to protect against an unreasonable risk a new chemical substance may pose under the conditions of use, either while information EPA needs to assess the chemical substance is developed, or if EPA determines that the substance may present an unreasonable risk under the conditions of use, or if such substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance? If not, please provide specific reasons why not, using statutory text to explain your reasoning.

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

3. Section 5(f)(4) of TSCA states that:

> "(4) TREATMENT OF NONCONFORMING USES.—Not later than 90 days after taking an action under paragraph (2) or (3) or issuing an order under subsection (e) relating to a chemical substance with respect to which the Administrator has made a determination under subsection (a)(3)(A) or (B), the Administrator shall consider whether to promulgate a rule pursuant to subsection (a)(2) that identifies as a significant new use any manufacturing, processing, use, distribution in commerce, or disposal of the chemical substance that does not conform to the restrictions imposed by the action or order, and, as applicable, initiate such a rulemaking or publish a statement describing the reasons of the Administrator for not initiating such a rulemaking."

Attachment 3 is an April 9, 2016 email from EPA providing responses to questions on the April 7 draft included in Attachment 2. The email asks whether the removal of provisions 5(e)(4) and 5(f)(1)(C) in that draft would also remove EPA's requirement to consider whether to issue a Significant New Use Rule (SNUR) when it issued orders to a submitter of a pre-manufacturing notice (PMN) (and explain its decision if it chose not to do so). EPA responded in the affirmative. Do you agree that the enacted law retained the April 7 draft's requirement to consider whether to issue a Significant New Use Rule (SNUR) when EPA has issued an order to a submitter of a pre-manufacturing notice (PMN) (and explain its decision if it chooses not to do so)? If not, please provide specific reasons why not, using statutory text to explain your reasoning.

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

4. The newly enacted TSCA requires EPA, for existing chemicals that are designated a high-priority chemical substance or otherwise designated for a risk evaluation, to:

> "conduct risk evaluations pursuant to this paragraph to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator, under the conditions of use."

In the statute, 'conditions of use' is defined as:

"the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of."

Attachment 4 is a December 12, 2016 (post-enactment) email conveying Technical Assistance from EPA that responded to several questions posed about how EPA was required to do risk evaluations for a chemical substance under the conditions of use. Do you agree with EPA's responses to these questions as well as the narrative that precedes the specific responses to questions? If not, please provide specific reasons why not, indicating in your response how your views are consistent with the statutory text excerpted above (or, as applicable, how EPA's responses are inconsistent with the statutory text excepted above).

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

5. Attachment 5 is a document that includes EPA's technical assistance and observations that compared an April 12 2016 Senate draft of section 5 to an April 18, 2016 House draft.

    a. On pages 2 and 15, EPA provides comments related to the 90-day period for review of a PMN. Do you agree that the enacted law includes text that reflects EPA's input in these comments? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
    b. On Page 14, EPA notes the deletion of the requirement not to consider costs or other non-risk factors when considering section 5(h) exemption requests. Do you agree that the enacted law retained this deletion in this subsection, but included the requirement in sections 5(a), 5(e) and 5(f)? If not, please provide specific reasons why not, using statutory text to explain your reasoning.

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

6. Attachment 6 consists of EPA's comments to a draft of Senate section 5 dated around April 12, 2016.

    a. EPA's comment A22 notes the absence of the requirement not to consider costs or other non-risk factors when considering section 5(h) exemption requests. Do you agree that the enacted law does not include the requirement in this subsection, but does include the requirement in subsections 5(a), 5(e) and 5(f)? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
    b. Do you agree that while this same EPA comment identifies one inconsistency between the above-described text that is absent from subsection 5(h) but appears throughout the rest of section 5, it does not identify another difference, namely the presence of the term "specific uses identified in the application" in subsection 5(h) versus the term "conditions of use" that appears throughout the rest of section 5? If not, why not?

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

7. Attachment 7 consists of EPA's comments to an April 3, 2016 Senate draft of section 5.

    a. On page 1, EPA observes that "5(e) requires no action on the part of the Administrator whatsoever: it is wholly discretionary authority to impose requirements on the manufacture pending development of information." Do you agree that the enacted law requires EPA to either prohibit manufacture or issue an order to mitigate against potential risk while information is being developed by a manufacturer? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
    b. On page 2, EPA responds to a question posed by Senate staff, stating "We think it is important not to limit review to the uses identified in the notice. If the identified uses seem fine, and EPA therefore does nothing, the submitter is free to submit an NOC and then manufacture in any way he or she wants. EPA often uses 5(e) orders to address uses beyond those specified in notices." Do you agree that the enacted statute requires EPA to review the conditions of use (as that term is defined in the statute) of a chemical substance when it reviews a PMN as EPA advised the Senate in this comment? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
    c. On page 9, EPA says that "It seems like the best solution, per above comment, may be to drop the limitation above that the order pertain only to the conditions of use specified in the notice." Do you agree that the enacted statute incorporated EPA's proposed 'best solution' and did not limit orders only to the conditions of use specified in the notice? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
    d. A second EPA comment on page 9 states that "A possible solution would be, in line with the Senate bill and offer, to drop (e) and require EPA to issue an order under what is now (f) any time EPA either makes a may present finding or lacks sufficient info, as necessary to make the unlikely to present finding." Do you agree that the enacted text retains section 5(e) and also requires EPA to issue an order any time EPA either makes a may present finding or lacks sufficient information before manufacturing can commence? If not, please provide specific reasons why not, using statutory text to explain your reasoning.
    e. On page 16, EPA responds to a question from Senate staff about whether, in the 5(h) exemptions section, it makes sense to deviate from the rest of the section's references to 'conditions of use' and instead limit EPA's exemption determination to the uses of the chemical substance identified in the exemption request. EPA responds by stating "We agree that the reference to specific uses makes sense, but not because of anything having to do with a SNUR. It seems to us that, if a party is seeking a partial section 5 exemptions, we would consider only the uses for which they are seeking the exemption, since the exemption would limit them to those." Do you agree that the enacted statute follows EPA's advice to retain the authority for

EPA to consider just the uses of a chemical substance included in an exemption request, but does not make the same limiting change anywhere else so as not to so limit its review of all conditions of use of a chemical substance subject to a PMN? If not, please provide specific reasons why not, using statutory text to explain your reasoning.

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

8. The following questions refer to the 'systematic review' document prepared by the Office of Chemical Safety and Pollution Prevention (OCSPP). Systematic review, in the context of chemical safety, refers to a methodology for deciding how to collect and evaluate scientific research that is related to the safety of a chemical. This document, which, unlike the systematic review document prepared by EPA's Office of Research and Development, has not been peer reviewed. It has also raised concerns[1] that it may intentionally have been crafted to exclude independent academic research from being used to evaluate the safety of chemicals.

    a. Other peer-reviewed examples of systematic review documents require a broad literature search to be conducted during the scoping and problem formulation phase of a risk evaluation, but the OCSPP document does not. Do you agree that the failure to conduct a broad literature search could result in a failure by EPA to fulfill its statutory obligation to use the 'best available science' when evaluating the safety of chemicals because it may not have a complete grasp of what science is 'available'? If not, why not?
    b. Other peer-reviewed examples of systematic review documents – as well as EPA's TCSA implementation regulations – require protocols to be developed for systematic reviews to be conducted, but the OCSPP document does not include such protocols. Do you agree that the use of a systematic review document that does not contain protocols for the conduct of TSCA risk evaluations could expose any chemical safety rules EPA promulgates to litigation risk because of the failure to follow EPA's TSCA implementation regulations? If not, why not?
    c. Other peer-reviewed examples of systematic review documents follow best practices to identify potential biases in scientific studies, but do not do so through the use of a quantitative scoring method. The OCSPP document does not follow these best practices, and instead uses a quantitative scoring method that results in the exclusion of scientific studies from consideration and use in the risk evaluation, and uses metrics that are not related to the quality of the scientific studies to do so. Do you agree that all relevant studies should be selected, evaluated for potential biases and

[1] See for example https://www.nrdc.org/experts/jennifer-sass/epa-tsca-systematic-review-chemicals-fatally-flawed

considered following the best practices described in peer-reviewed examples of systematic review documents? If not, why not?

d. Other peer-reviewed examples of systematic review documents – as well as EPA's TSCA regulations – require scientific evidence to be integrated into the risk evaluation based on the relevance, quality, strengths and limitations of the entire body of the evidence in order to derive a risk value for the chemical. The OCSPP document does not follow these best practices or EPA's regulations. Do you agree that a failure to integrate the scientific evidence into a risk evaluation in a manner that is consistent with best practices and EPA's TSCA regulations could expose any chemical safety regulations EPA promulgates to litigation risk? If not, why not?

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law nor have I been involved in the development of systematic review approaches. Thus, I cannot speak to the appropriateness of EPA's approach. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

10. For decades, both Republican and Democratic administrations alike have had written policies limiting White House contacts with agencies that have investigatory and enforcement responsibilities. These policies have recognized that even a simple phone call from the White House to an agency inquiring about or flagging a specific matter can upset the evenhanded application of the law.

    a. Do you agree that it is essential that in making decisions, the Office of Chemical Safety and Pollution Prevention must be spared even the appearance of being subject to political influence or considerations?

    I agree it is essential in making decisions for the EPA, including the Office of Chemical Safety and Pollution Prevention, to operate beyond the bounds of political influence.

    b. Will you commit to notifying this Committee within one week if any inappropriate communications from White House staff to OCSPP staff, including you, occur?

    I commit to restricting any inappropriate communications.

11. Whistleblower laws protect the right of federal employees to make lawful disclosures to agency management officials, the Inspector General, and the Office of Special Counsel. They also have the right to make disclosures to Congress.

    Specifically, 5 U.S.C. § 7211 states that the "right of employees, individually or collectively, to petition Congress or a Member of Congress or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied." Further, 5 U.S.C. § 2302(b)(8), makes it a violation of federal law to retaliate against whistleblower because of "(A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences- (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation..." In addition, pursuant to 18 U.S.C. § 1505, it is against federal law to interfere with a Congressional inquiry.

    c. If you are confirmed, will you commit to protect the rights of all OCSPP career employees to make lawful disclosures, including their right to speak with Congress?

       Yes, if I am confirmed, I commit to protecting the rights of all OCSPP career employees to make lawful disclosures, including their right to speak with Congress.

    d. Will you commit to communicate employees' whistleblower rights via email to all OCSPP employees within a week of being sworn in?

       If confirmed, I will ensure that the EPA employee's whistleblower rights are communicated to them in a timely fashion.

12. Last year, my staff was informed that EPA political staff verbally directed career staff to simply delete the majority of the benefits of the Clean Water Rule before submitting a revised document to OMB about the rule. If you are confirmed, do you commit to ensure that career staff at OCSPP will receive appropriately documented, rather than verbal, direction from political officials, including yourself, before they take action? If not, why not?

    I am not aware of the situation which you are referencing, but I will always seek to provide my directions clearly and transparently.

13. Do you agree to provide complete, accurate and timely responses to requests for information submitted to you by any Member of the Environment and Public Works Committee? If not, why not?

Yes, if I am confirmed.

14. Last year, EPA announced that then-Administrator Pruitt would be publishing brief summaries of his calendars biweekly, after dozens of Freedom of Information Act requests for this information as well as a March 2017 request by me and my colleagues that he do so. During the Obama Administration, the Administrator, regional Administrators and all those serving in confirmed roles published their calendars daily.[2] If you are confirmed, will you commit to publishing your calendars daily? If not, why not?

As Regional Administrator, I already make my calendar publicly available, and, if confirmed, will continue to do so in a timely manner.

Senator Booker:

15. Pursuant to EPA regulations, public files on new chemicals submitted for review under TSCA are required to be electronically available in dockets on regulations.gov and are to contain all relevant documents. EPA is not doing so, however.

    a. If confirmed, will you commit to ensuring your office will promptly provide the public with such electronic access to the information EPA obtains or generates in its review of new chemicals, subject to redactions only to the extent authorized under TSCA?

    In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

[2] https://yosemite.epa.gov/opa/admpress.nsf/Calendars?OpenView

16. Health and safety studies are ineligible for Confidential Business Information (CBI) protection under TSCA. While elements in these studies that legitimately qualify as CBI can be redacted, TSCA section 14 specifically precludes protection from disclosure of all non-confidential information in these studies.

    a. If confirmed, will you commit to ensuring your office will promptly provide the public with ready electronic access to full copies of all health and safety studies EPA receives or obtains for new and existing chemicals under TSCA, subject to redactions only to the extent authorized under TSCA?

    In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

17. One of the goals of TSCA was to make more information on chemicals publicly available by requiring company substantiation and EPA review, within 90 days, of most CBI claims. TSCA requires that EPA's determinations on those claims it reviews are to be made public.

    a. If confirmed, will you commit to ensuring your office will review CBI claims and promptly provide the public with ready electronic access to the EPA determinations on CBI claims, and promptly disclose all information it finds does not qualify for CBI protection, as required by law?

    In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

18. A 2016 reform to TSCA assigned EPA an affirmative duty, in consultation with CDC, to "develop a request and notification system that, in a format and language that is readily accessible and understandable, allows for expedient and swift access" by first responders and other emergency personnel and health and environmental professionals to CBI they request and need to do their jobs.

    a. If confirmed, will you commit to ensuring your office will promptly provide ready electronic access by first responders and other emergency personnel and health and environmental professionals to confidential information about the uses and potential hazards, exposures, and risks of specific chemicals, as required by law?

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

19. Organophosphate pesticides (OPs) are a class of neurotoxic chemicals initially developed by the Nazis during World War II to serve as nerve gas agents. After the war, the chemical companies adapted the OPs to be used as pesticides, primarily as insecticides. In the U.S., many OP pesticides were licensed for insecticidal use before requirements to evaluate human toxicity or ecologic effects were established. OP pesticides are widely used across the U.S. even though EPA's risk assessments of this class of pesticides document health risks that exceed EPA's levels of concern.

    a. If confirmed, where preliminarily risk assessments for an OP pesticide show risks of concern, will you commit to prioritize finalization of the risk assessments and taking regulatory action?
    b. If confirmed, where preliminary risk assessments for OP pesticides demonstrate that there are risks of concern for communities from spray drift will you commit to imposing use restrictions that mitigate the risks of concerns such as buffer zones around homes, schools, day cares, play fields, and other places people gather?
    c. If confirmed, where preliminary risk assessments for an OP pesticide demonstrate that there are risks of concern for workers who mix, load and apply the pesticide or work in fields sprayed with the pesticide, will you commit to cancelling the uses and imposing interim restrictions (other than additional personal protective equipment) that reduce the risks of concern to workers, during the cancelation process?

Although I have not been involved in the evaluation of organophosphate pesticides; if confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

20. In 2009, EPA's Office of Pesticide Programs (EPA/OPP) within the Office of Chemical Safety and Pollution Prevention, published "Revised Risk Assessment Methods for Workers, Children of Workers in Agricultural Fields, and Pesticides with No Food Uses." In this document, EPA/OPP promised to extend certain "advanced risk assessment techniques" routinely applied in dietary risk assessments to occupational risk assessments needed to protect hundreds of thousands of farm workers. It has been almost a decade, and EPA/OPP has failed to act. As a result, pesticide risk assessments conducted by EPA continue to understate risks to workers.

    In this 2009 document, EPA committed to assessing risks to the children of farm workers in agricultural fields, and to applying the additional safety factor of 10 to protect them.

a. If confirmed, will you consult with EPA/OPP staff on the status of implementation of the 2009 policy with respect to children in agricultural fields, and provide an update to my office on what steps you will take on this issue?

Yes, if confirmed.

In this 2009 document, EPA/OPP committed to considering aggregate exposure by combining "all potential sources of exposure" to pesticides, including both occupational and non-occupational sources, when assessing risks to workers and their children.

b. If confirmed, will you consult with EPA/OPP staff on the status of the 2009 policy with respect to aggregate exposure, and provide an update to my office on what steps you will take on this issue?

Yes, if confirmed.

In this document, EPA/OPP committed to assessing cumulative exposure to workers and their children from multiple pesticides.

c. If confirmed, will you consult with EPA/OPP staff on the status of implementation of the 2009 policy with respect to cumulative exposure, and provide an update to my office on what steps you will take on this issue?

Yes, if confirmed.

21. The Certification of Pesticide Applicators (CPA) rule governs the training of nearly 1 million workers that apply Restricted Use Pesticides--including organophosphate pesticides--in agricultural, commercial and residential settings. The Agricultural Worker Protection Standard (WPS) protects approximately 2.5 million workers and pesticide handlers (including 500,000 children) that labor in farms, fields, nurseries, greenhouses and forests.

d. If confirmed, will you commit to the implementation of the WPS and the CPA rule as finalized on November 2, 2015 and January 4, 2017, respectively?

Although I have not been involved in the implementation of this policy, if confirmed, I look forward to being briefed on this issue and to following up with your office to discuss this matter.

22. When EPA conducts a risk assessment and finds that exposure to a pesticide exceeds levels of concern, the Agency may require personal protective equipment like extra layers of clothing and/or respirators to reduce exposure. A bedrock principle of occupational hygiene is the "hierarchy of controls," which is used by the Occupational Safety and Health Administration (OSHA) and others to identify options for controlling exposures to occupational hazards. The hierarchy prioritizes elimination of the hazardous agent or substitution of a less hazardous agent. These are preferable to the implementation of engineering controls, which in turn are preferable to requiring personal protective equipment. For workers who are protected by OSHA, personal protective equipment is always the mitigation measure of last resort. When it comes to protecting workers from pesticides, EPA is in charge and the agency starts by considering personal protective equipment, then considers engineering controls, and never considers substitution with less toxic options or practices. EPA's approach is backwards and incomplete.

    a. If confirmed, will you consult with EPA/OPP staff on this issue and provide an update to my office on whether EPA/OPP will begin to follow the hierarchy of controls when selecting options to reduce occupational risk from pesticides, and the justification for the EPA/OPP decision?

       Yes, if confirmed.

Senator Capito:

23. EPA's voluntary Safer Choice program allows companies to add a Safer Choice logo to product labels. The Safer Choice logo informs consumers that the product uses only safest-in-class ingredients. Without imposing regulations, the program has provided incentives to companies to formulate safer products and develop innovative new chemistries. Will you support continuing this program at EPA?

    If confirmed, I will manage EPA's Office of Chemical Safety and Pollution Prevention programs within the authorities and resources provided by Congress.

Senator Duckworth:

24. In December 2016, the U.S. Environmental Protection Agency's (EPA) Integrated Risk Information System (IRIS) program found ethylene oxide (EtO) to be much more carcinogenic at lower concentrations than previously thought. As a result, the 2014 National Air Toxics Assessment showed that DuPage County residents have an increased cancer risk from EtO exposure.

    For years, the Chemical Industry has tried to politicize the IRIS program by moving it to a regulatory office that is led by political appointees. If confirmed to be Assistant Administrator of EPA's Office of Chemical Safety and Pollution Prevention, would you keep the IRIS program in the Office of Research and Development and condemn attempts to move it?

    In my current capacity with EPA, I have not been involved in any policy discussions regarding this issue; if confirmed, I look forward to being briefed on this matter and to following up with your office.

25. Recent reports exposed multiple ways the Federal Government has failed to protect Illinoisans from toxic chemical exposure while intentionally and needlessly delayed the public disclosure of known cancer risks. For example, in Illinois, EPA worked behind the scenes to help one facility erase evidence of their ethylene oxide emissions.

    Specifically, I am concerned that EPA regularly fails to notify the public about public health risks, purges data and lacks the requirements to use the most rigorous public health standards. If confirmed, what steps will you take to inform communities, industry members and Congress of public health risks associated with chemical safety issues?

    Identifying, understanding, and communicating risk posed by elements in the environment is one of the most critical functions of the Agency. If confirmed, I look forward to being briefed on this issue and working with your office to identify ways to communicate risk with the American public.

26. One issue that has emerged in Illinois is that EPA must be more coordinated with Agency for Toxic Substances and Disease Control Registry (ATSDR) and other public health agencies on their risk evaluations. If confirmed, will you commit to bringing the relevant public health experts together at EPA and ATSDR to help proactively review health risks?

    I believe that federal agencies should work together to effectively serve the American public. If confirmed, I look forward to finding ways to advance the coordination you seek and to discussing this further with your office.

Senator Gillibrand:

27. PFAS chemicals are contaminating the drinking water of thousands of communities, including Hoosick Falls, Petersburgh, Newburgh and Westhampton in New York, among many others nationwide. One study estimates that 110 million Americans are drinking water contaminated with these "forever" chemicals, which have been linked to cancer, reproductive problems, and other serious health concerns. Facing increased public awareness on the potential harms posed by PFAS chemicals and the discovery of contaminated drinking water across the country, EPA has started to consider taking further action to address these chemicals. EPA is considering new regulations for PFOA and PFOS and health-based limits for PFBS and GenX, two fluorinated chemicals that are being manufactured as replacements for PFOA and PFOS. However, there are thousands of PFAS chemicals in commerce, not just 4. In just the last 16 years, EPA has allowed 112 new PFAS chemicals to be produced in large quantities, even though the publicly available data about PFAS chemicals is woefully inadequate.

    a. If confirmed, will you commit to use your authority under TSCA to require toxicity data and testing for new and existing PFAS chemicals?

    In my role as Region 1 Administrator I have worked on PFOA and PFOS issues and how they are impacting New England communities. If confirmed, I commit to being fully briefed on these larger issues and working with your office in follow up. In particular, I will make it a priority to be briefed on OCSPP's authorities to manage exposures to PFOA and PFOS and other chemicals in this family in commerce to ensure protection of public health and the environment.

    b. Do you agree that EPA should have health effects data about PFAS chemicals before allowing additional PFAS chemicals onto the market?

    If confirmed, I commit to being fully briefed on these issues and working with your office in follow up.

    c. Will you commit to reconsidering EPA's decision not to look at "legacy uses" of chemicals when considering whether to take action on a chemical under TSCA?

    Although I have not been involved in the implementation of this policy, if confirmed, I look forward to being briefed on this issue and to following up with your office.

28. Chlorpyrifos is a pesticide known to harm child brain development. After the EPA refused to ban this pesticide - against the recommendations of its own scientists - the 9th Circuit Court required that Chlorpyrifos be removed from the market. Earlier this month, independent researchers found that the data submitted by Dow-DuPont to get Chlorpyrifos approved in the US and EU contained significant errors and omissions.

    a. Do you support the permanent withdrawal of Chlorpyrifos?

b. If you are confirmed, how would you ensure that data provided by industry is accurate when they seek approval for products like pesticides, seed treatments, or biotechnology?
c. How can you ensure independent verification of data, and will you commit to sharing safety study data submissions with independent academic researchers?
d. How will you provide rigorous oversight of pesticide manufacturers even as the Administration continues to staff Agencies with pesticide industry executives?

Although I have not been involved in EPA's actions regarding Chlorpyrifos in my role as Region 1 Administrator, if confirmed, I look forward to being briefed on these issues and to following up with your office. EPA will use our authorities to oversee manufacturers to protect public health and the environment.

29. 1,4-Dioxane is a suspected carcinogen that is a very serious drinking water contaminant in New York, especially Long Island. Consumers are exposed to 1,4-Dioxane through their drinking water, through their personal care products, and through industrial releases. However, EPA's review of 1,4-Dioxane excludes many of these routes of exposure.

a. How can EPA fairly evaluate the risks posed by 1,4-Dioxane if you don't properly estimate all the ways consumers are exposed to 1,4-Dioxane, including through their drinking water?
b. By excluding routes of exposure like drinking water, aren't you tipping the scale in favor of less or even no regulation of this chemical, which has been linked to cancer?
c. If confirmed, will you commit to include all uses, including reasonably foreseeable and legacy uses, in both new and existing chemical risk evaluations?

Although I have not been involved in the implementation of this policy, if confirmed, I look forward to being briefed on this issue and to following up with your office.

Senator Markey:

30. In 2016, my office authored a report called "The ABCs of PCBs" that found up to 14 million students may be exposed to toxic PCBs in schools. These chemicals lurk in fluorescent lights and other school building materials, leaking out to threaten the health of our children. The EPA published an Advanced Notice of Proposed Rulemaking on PCBs in 2010, but has yet to take action on this danger to children's health.

a. If confirmed, will you commit to finalize the rule requiring the replacement of light ballasts in schools and daycares that contain toxic PCBs?

I agree that children should be safe in their schools. In my role as Region 1 Administrator, I have not been involved in this rulemaking. If confirmed, I look forward to being briefed on this issue and to following up with your office.

31. In response to Senator Booker during the hearing, you said, "I think we can all agree that workers should be safe in their places of work. They should know that the chemicals that they are applying will not adversely affect their health." However, EPA has begun a policy of declaring chemicals "not likely to present an unreasonable risk" to workers, based on the assumption that it is sufficient to have an unenforceable Safety Data Sheet available to workers on site—this categorization allows new chemicals to go on the market with no safety restrictions at all. Safety Data Sheets are not enforceable and simply describe how a worker could control their exposure and use personal protective equipment to limit risks. This contravenes Congress's intent when it required that the EPA determine whether a new chemical presents an unreasonable risk to certain vulnerable subpopulations, including workers, as part of TSCA.

    a. Will you commit to ensuring that EPA establishes requirements and restrictions for chemical manufacturers that ensure workers are fully protected from risks posed by new chemicals, if confirmed?
    b. If confirmed, will you commit to reviewing and revisiting the failure to issue 5(e) orders for new chemicals for which EPA determines there may be an unreasonable risks, as the law requires, and to ensuring that EPA complies with all the requirements of Section 5 of TSCA?

    I stand by my statement regarding the importance of EPA's role in protecting workers. In my current capacity with EPA as Region 1 Administrator, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office.

32. The revised TSCA requires EPA to consider "all reasonably available data" in evaluating whether a chemical poses an unreasonable risk to human health or the environment. In the 2016 TSCA revisions, the EPA got new order authority under Section 4 to require testing of chemicals. More than two years later, however, EPA has not issued a single test order for a chemical under TSCA. Meanwhile, EPA just released its first draft risk evaluation, for Pigment Violet 29, and claims that it considered all "reasonably available data" in reaching the conclusion that the chemical does not pose an unreasonable risk. It is contrary to the entire reauthorization of TSCA for EPA to be reaching conclusions of no unreasonable risk based on chemicals with nothing more than a baseline data set that fails to include any chronic hazard endpoints such as cancer, endocrine disruption, two-generation effects, neurobehavioral effects, and in most cases not even acute testing of the PV29 material itself.

    a. Explain your plans for exercising EPA's – thus-far unused -- Section 4 test order authority, as well as Section 8 information gathering and other tools, to ensure that EPA is assembling and reviewing a complete record of information on chemicals for prioritization and evaluation.

b. Describe what you will do to address the Agency's deeply problematic approach to defining "all reasonably available data" so that EPA does not continue to reach "no unreasonable risk" determinations based on a record barren of scientific information or data.

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on these issues and to working with your office and others to address these matters of concern.

33. EPA's Pesticide Office recently determined that glyphosate is "not likely to be carcinogenic to humans," contrary to the Agency's own Cancer Guidelines, career scientists in the Office of Research and Development, and the Science Advisory Panel that reviewed EPA's work. In doing so, the Pesticide Office discounted significant evidence of tumors in male mice due to glyphosate exposure.

    a. If confirmed, what will you do to ensure that all communications between OPPTS staff and all outside parties, including industry, are both appropriate and fully transparent?
    b. What will you do to ensure that the Pesticides office makes decisions that are consistent with the Agency's own Cancer Guidelines?

    Although I have not been involved in the glyphosate risk assessment, if confirmed, I look forward to being briefed on this issue and to following up with your office.

34. On December 21, 2016, EPA issued a final risk assessment for tetrachlorvinphos (TCVP), a dangerous organophosphate pesticide that is used in some household pet products, like flea collars and shampoos. The risk assessment acknowledged that epidemiology studies have "consistently identified" neurodevelopmental effects associated with organophosphate exposure, including "delays in mental development in infants (24-36 months), attention problems and autism spectrum disorder in early childhood, and intelligence decrements in school age children." EPA concluded that "there is a need to protect children from exposures that may cause these effects." On January 4, 2017, EPA issued a press release about the TCVP risk assessment, acknowledging that it identified "risks to people, including children … which exceed the Agency's level of concern." The press release asserted that the agency "will issue" a Proposed Decision on TCVP's FIFRA registration in 2017. However, EPA took no further action on TCVP's registration in either 2017 or 2018. In the meantime, TCVP continues to be sold in household pet products, where it threatens the neurodevelopment of young children exposed through their pets.

    a. If confirmed, will you commit to issuing a Proposed Decision on TCVP's registration in the first half of 2019?

Although I have not been involved in the TCVP risk assessment, if confirmed, I look forward to being briefed on this issue and to following up with your office on the timing of EPA's actions.

35. If confirmed, will you commit to reviewing how EPA is interpreting "reasonably foreseeable" in the context of new chemical reviews, to ensure it is consistent with the letter and intent of revised TSCA?

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office.

Senator Merkley:

36. The EPA announced in 2017 that the TSCA new chemical review process would not include a consideration of the chemical safety risk across all uses of a new chemical, and instead would allow new chemicals to enter the marketplace after considering only the intended uses identified by the industry applicant.

I'm concerned that, rather than evaluating the risk a new chemical may pose in the future, EPA is considering only the potential risk from the uses that the first manufacturer of the chemical initially identifies, even though if that chemical is allowed on the market on that basis without any conditions, other manufacturers are likely to use the chemical for other purposes.

Under this approach, EPA would never consider the combined risks from both intended and other reasonably foreseen uses of the chemical. That could result in a failure to address all of the potential risks of the new chemical, and inadequate protection of human health and the environment.

a. How do you plan on redirecting OCSPP to ensure that chemical reviews are implemented as required by TSCA?
b. If confirmed, will you commit to including in both in both new and existing chemical risk evaluations ALL reasonably foreseeable future uses of chemicals under review?

In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office on these matters.

37. EPA's final fee rule establishes the "user fees" Congress authorized EPA to collect from chemical manufacturers and processors to help defray EPA's costs for implementing TSCA. In that fee rule, the agency grossly underestimated not only the costs of reviewing Confidential Business Information claims (claiming its costs would be only one-fifth of its costs to meet a much narrower set of obligations to under the old TSCA), but entirely excluded its costs to provide ready access to CBI required under the new TSCA to state governments and other qualified persons, or to provide public access to information that does not qualify for protection from disclosure.

    a. If chosen to lead the OCSPP, will you commit to prioritizing adequate funding to ensure ready access to confidential business information to qualified states and other persons, and access to non-confidential information by the public?

    In my current capacity with EPA, I have not been involved in the implementation of the TSCA law and cannot speak to this policy. If confirmed, I look forward to being briefed on this issue and to following up with your office on these matters.

38. Millions of people are still exposed to asbestos every single day, in schools, commercial buildings, construction sites, factories, and homes. Yet EPA's ongoing asbestos risk evaluation does NOT account for the existing presence and ongoing use of asbestos.

    a. Do you support EPA's decision to ignore this risk by removing it from the scope of the risk evaluation?
    b. Can you pledge to work with this Committee to include legacy use and exposure in EPA's ongoing risk evaluation?

    I acknowledge the concerns around the risks posed by asbestos. Although I have not been involved in the work on these issues in my role as Region 1 Administrator, if confirmed, I look forward to being briefed on this issue and to following up with your office.

39. EPA's ongoing asbestos risk analysis also excludes several types of cancer and lung disease, along with all exposure to asbestos resulting from its release into the environment.

    a. Will you commit to removing these exclusions, and instead conducting a thorough and comprehensive evaluation?

    I acknowledge the concerns around the risks posed by asbestos. Although I have not been involved in the work on these issues in my role as Region 1 Administrator, if confirmed, I look forward to being briefed on this issue and to following up with your office.

40. As you know, chlorpyrifos is a dangerous pesticide that can damage the developing brains of children, causing reduced IQ, loss of working memory, and attention deficit disorders. After finding unacceptable risks to children, residential uses of this pesticide ended in 2000, but it continues to be widely used in U.S. agriculture.

    Farmworkers are exposed to chlorpyrifos from mixing, handling, and applying the pesticide, as well as from entering fields where chlorpyrifos was recently sprayed. This is why health, civil rights, and labor organizations (including Pineros y Campesinos Unidos del Noroeste, Oregon's farmworkers union) sued the EPA to secure a ban on chlorpyrifos.

    In August 2018, the 9th Circuit Court of Appeals ruled that the Trump administration endangered public health by keeping chlorpyrifos on the market and ordered EPA to move forward with a ban. Unfortunately, the agency is currently appealing that ruling, despite extensive scientific evidence that even tiny levels of exposure can harm babies' brains.

    a. If confirmed as Assistant Administrator, will you commit to following the 9th Circuit's court order to revoke all food tolerances of chlorpyrifos and cancel all registrations for chlorpyrifos?

       Although I have not been involved in EPA's actions regarding Chlorpyrifos in my role as Region 1 Administrator, if confirmed, I look forward to being briefed on these issues and to following up with your office. EPA is a rule of law agency and will comply with court orders when final following appropriate appeals.

41. The Frank R. Lautenberg Chemical Safety for the 21st Century Act mandates that EPA's evaluations of chemicals determine whether they pose an unreasonable risk to human health or the environment. The law requires EPA to consider and protect susceptible populations, including children, pregnant women and workers – those who face greater exposure to chemicals or are more sensitive to the exposures they face.

    EPA is proposing to use, and may already be using, "New Approach Methods" for prioritizing and assessing the risk of chemicals in our environment, but these methods have some severe deficiencies that will lead them to underestimate the potential impacts to vulnerable populations.

    First, the New Approach Methods for estimating exposure to chemicals do not include children under the age of six, highly exposed populations (workers), and are limited in their ability to predict exposures for pregnant women. Using these methods for exposure-based decisions under TSCA would, therefore, fail to meet the statutory mandate to protect these populations.

Second, the New Approach Methods for determining toxicity have multiple important gaps – limited capacity to determine the toxicity of chemicals that are metabolized in the body, and reduced ability to determine potential developmental or reproductive outcomes – that prohibit their use in identifying chemicals that ostensibly do not pose a potential for harm.

a. Given these limitations, what actions will you take to prevent these tools from being used in ways that do not protect children and other susceptible populations and therefore fail to meet the requirements under the law?
b. If you were presented with information that demonstrated the failure of these tools to protect pregnant women, what would you do to ensure that they are not used in a way that could harm future generations?
c. Can you commit to ensuring full public disclosure of the ways in which new tools are deployed under TSCA including a demonstration that the new methods are protective of kids, families, and the people that labor every day to propel our economy?

As a professor of environmental justice, I am committed to considering impacts on, and to protecting, all Americans – particularly our most vulnerable. While in my current capacity with EPA as Region 1 Administrator, I have not been involved in the implementation of the TSCA law and cannot speak to this policy, if confirmed, I look forward to being briefed on this issue and to following up with your office.

Senator Rounds:

42. Administrator Dunn, on November 4th, 2018, the Rapid City Journal published an article entitled "The Toxic Legacy of Firefighting Foam." The article details the disturbing extent of contamination resulting from the Department of Defense's use of firefighting foam containing non-stick chemicals called PFAS (pee-foss) near Ellsworth Airforce Base. As you know, these chemicals have been linked to cancer, thyroid disease and other negative health consequences.

    a. These dangerous chemicals have leaked into the water supply utilized by civilians in western South Dakota. Nationwide, the extent of the problem is not known. That is why I joined Senator Stabenow in sponsoring the PFAS Detection Act, which would direct the U.S. Geological Survey to perform a coast-to-coast survey of this problem. Should you be nominated, what actions do you plan to take to understand the extent of this contamination nationwide?
    b. As Region 1 Administrator, what have you done thus far to determine the extent of this problem in your region?
    c. Do you believe that industry is poised to assist with risk mitigation as it relates to PFAS?

In my current capacity as EPA Region 1 Administrator I have had the opportunity to work closely with communities impacted by PFOA/PFOS contamination. All six New England states are impacted by PFAS contamination. I have met with community groups, parents, and with our state and tribal partners to discuss concerns and various methods of testing and site identification. I am proud of the opportunity we had in New England to host the first regional workshop on PFAS in June 2018 and to improve the level of communication with communities around these chemicals. If confirmed, I will remain committed to working on reducing the adverse impacts of these chemicals on human health and the environment, to leverage all sources of risk mitigation and risk communication – including having industry take action for cleanup where they are found responsible – and to being fully briefed on what specific authorities lie in OCSPP to address this concern.

43. Administrator Dunn, in 2016, the EPA published a health advisory for PFAS and PFOA (pee-fo-uh), which established the level at which these chemicals become harmful to human health. While these advisories are helpful, they do not come equipped with federal resources to mitigate harm.

    a. From the most stringent to the least interventionist, what are the range of authorities the Office of Chemical Safety has to deal with these chemicals?
    b. Does Congress need to consider granting the EPA additional authorities to target this class of chemicals?
    c. You have a broad range of experience regarding environmental and chemical regulation. In you professional opinion, why was this issue not dealt with sooner?
    d. Are you confident that our scientific understanding of this issue is adequate, or does more need to be completed in that regard?

In my current capacity as EPA Region 1 Administrator I have had the opportunity to work closely with communities impacted by PFOA/PFOS contamination. All six New England states are impacted by PFAS contamination. I have met with community groups, parents, and with our state and tribal partners to discuss concerns and various methods of testing and site identification. I am proud of the opportunity we had in New England to host the first regional workshop on PFAS in June 2018 and to improve the level of communication with communities around these chemicals. If confirmed, I will remain committed to working on reducing the adverse impacts of these chemicals on human health and the environment. If confirmed, I am willing to after briefing work with your office to explore whether EPA needs additional authority and to with my colleagues at EPA and across the federal agencies to assess the status of our scientific understandings.

44. Administrator Dunn, on October 3, 2018, the Environment and Public Works Oversight subcommittee I chair held a hearing entitled "Oversight of the Environmental Protection Agency's Implementation of Sound and Transparent Science in Regulation." During the hearing, we heard testimony about opportunities for greater transparency at the EPA.

    a. In this new position, you will have a direct role in chemical regulation. Can you speak to the value you place on sound and transparent science?
    b. If you are confirmed, are you willing to work with me to explore greater opportunities for transparency at the EPA?

    I value sound and transparent science. If confirmed, I am committed to working with your office to explore greater opportunities for transparency at the EPA.

45. Administrator Dunn, on April 30, 2018, the EPA published a proposed rule entitled "Strengthening Transparency in Regulatory Science." This proposed rule would require the EPA to implement transparency measures designed to isolate the EPA's regulations from unknown biases.

    a. Have you had an opportunity to review this proposed rule? What is your opinion on this rulemaking effort?
    b. Do you believe there are ways in which this proposed rule could be improved prior to a final rulemaking?
    c. Should the EPA consider data disclosure requirements consistent with the practices of major peer-reviewed academic journals?

    Although I have not been involved in the consideration of this proposed rule in my role as Region 1 Administrator, if confirmed, I look forward to being briefed on this issue and to following up with your office on this matter.

46. Administrator Dunn, in my home state of South Dakota, agriculture is our number one industry. Consequently, when our agricultural economy is not allowed to thrive, the entire state suffers. In the past, the EPA has not been as receptive to agricultural concerns as they should have been. I am pleased that Acting Administrator Wheeler appears to be charting a better course at the EPA.

    a. As Region 1 Administrator, what has been your experience dealing with agricultural stakeholders?
    b. If you are confirmed, how do you plan to incorporate agricultural input into your decision-making?

Agriculture plays a critical role in promoting American life and encouraging a vibrant economy. Several Region 1 states have vibrant agricultural economies and I have had opportunities to learn more about how important these activities are to the states' identities, workforce opportunities, and culture. If confirmed, I look forward to working with all stakeholders, including agricultural stakeholders, to promote the mission of the Agency.

47. Administrator Dunn, the Federal Insecticide, Fungicide, and Rodenticide Act, called FIFRA, allows the EPA to issue a "conditional" registration for a pesticide when the registrant meets certain criteria under FIFRA. In recent years, NGOs have successfully challenged these registrations. These revocations can be extremely harmful to the economic stability of what are often small businesses that are relying on their registration to market years of hard work. Further, these revocations hurt American innovation, consumers and agricultural operations that rely on these groundbreaking new technologies.

    a. It is our understanding that the EPA has recently implemented a policy of not issuing any more conditional registrations despite the fact Congress specifically authorized the EPA to do so. Additionally, the Ninth Circuit vacated a nanosilver conditional registration over 18 months ago and EPA has not re-issued it. If confirmed will you commit to reassessing this new policy, and expedite the decision-making process for re-issuance of that and any other vacated conditional registration remanded back to your office?

    Although I have not been involved in the consideration of this policy in my role as EPA Region 1 Administrator, if confirmed, I look forward to being briefed on this issue and to following up with your office.

Senator Whitehouse:

48. Will you commit to reviewing EPA's final rule for chemical risk evaluations as well as the proposed problem formulations for asbestos, 1-bromopropane, carbon tetrachloride, 1, 4 dioxane, cyclic aliphatic bromide cluster, methylene chloride, N-methylpyrrolidone, perchloroethylene, pigment violet 29, and trichloroethylene? If you determine that any of these documents are inconsistent with the Toxic Substances Control Act (TSCA) as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, will you commit to rectifying these documents so that they are consistent with relevant statutes?

    Although I have not been involved in the assessment of the first 10 chemicals under TSCA in my role as EPA Region 1 Administrator, if confirmed, I look forward to being briefed on these risk evaluations, to ensuring that EPA follows the law, and to following up with your office.

49. 36 C.F.R. §1222.22 provides that federal employees must keep "adequate documentation of agency business." This is defined to include "document[ing] the formulation and execution of basic policies and decisions […], including all substantive decisions and commitments reached orally." Will you commit to familiarizing yourself with this and all other regulations governing records creation and retention and pledge to ensure that all OCSPP staff follows applicable federal rules governing records creation and retention?

Yes, if I am confirmed.

50. Under 5. C.F.R. §2635.502, federal employees are not supposed to participate in specific matters such as litigation that involve their former employers or clients for a period of one year following the termination of the employment or client relationship. Earlier this year, Nancy Beck, a Deputy Assistant Administrator in OCSPP, received a waiver allowing her to participate in litigation in which her former employer, the American Chemistry Council, had intervened. Do you agree that EPA should not make exceptions to ethics rules such as it did in this case, and will you commit to strictly enforcing ethics rules for all those who work at OCSPP?

If confirmed, I will rely on the guidance from EPA's career ethics officials to determine any issues for which I am to be recused and ensure all employees under OCSPP do so as well.

51. EPA's Integrated Risk Information System (IRIS) program has developed a systematic review protocol that has been reviewed by the National Academies. The National Academies' most recent report on the IRIS program gives the IRIS systematic review protocol positive marks. Political officials in OCSPP have developed their own, substantially different, systematic review protocol that has not been reviewed by the National Academies. Why should chemical risk evaluations depend in part on a systematic review protocol that has not been vetted by the National Academies? Will you commit to using a systematic review protocol for chemical risk evaluations that has been vetted by the National Academies?

Although I have not been involved in the development of systematic review approaches; if confirmed, I look forward to being briefed on this issue and to following up with your office.

52. The United States is a Party to the Minamata Convention on Mercury. Under the Convention, the United States has obligations related to reducing mercury use in product manufacturing and in industrial processes. The U.S. must also discourage new mercury product types, discourage new uses of mercury in manufacturing processes, and comply with reporting obligations related to each of these control measures. In 2019, EPA will be identifying the next round of 20 high priority substances for chemical risk evaluations under TSCA. Will you commit to including mercury and mercury compounds among the 20 high priority substances to be designated in 2019, so that the U.S. can meet its international obligations? If you will not make such a commitment, please explain how the U.S. will meet its Minimata Convention obligations to reduce mercury use in products and processes without using its TSCA authorities to do so.

Although I have not been involved in the work leading up to the selection of high priority substances for risk evaluation under TSCA in my role as Region 1 Administrator, if confirmed, I look forward to being briefed on this issue and to following up with your office regarding these matters.